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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,968	09/07/2000	John Mark McGrath	450110-02827	2148
20999	7590	10/05/2004		
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER BOCCIO, VINCENT F	
			ART UNIT 2616	PAPER NUMBER

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/656,968

**Applicant(s)**

MCGRATH ET AL.

**Examiner**

Vincent F. Boccio

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/15/00 & 3/12/02
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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**DETAILED ACTION**

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to **Group Art Unit 2616**.

**Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Marcus (US 6,032,156).

Regarding claim 1, Marcus discloses and meets the limitations associated with a system/apparatus and method for

- editing (Fig. 4 {Editing Program}, also Fig. 1) source content sequence (input source content or media, "Clip Library", "Database"),
- source metadata (col. 2, lines 25-30, "... from a database containing information concerning the audiovisual media elements, certain audiovisual media elements are selected"), being associated with portions of the source content,

the system comprising:

- storage for storing a template defining a desired style for content, template metadata being provided within the template to define the desired style (col. 8, lines 2-65, "user may directly select templates", lines 57-, "the system may select

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appropriate clips from the database and apply suitable transitions" and "the editor program selects and orders one or more suitable templates", line 2-, col. 3, line 66 to col. 4, line 10-... etc.);

- a processing unit configured to apply the templates to the source content by comparing (Fig. 5, also col. 1, lines 37-50), the source metadata (Fig. 2) with template metadata (col. 8, "tags ... attributes of luminance chrominance music tempo and key and colors", col. 3, lines 13-15- etc.....), to arrange the portions of source content in accordance with the comparison (auto-selection) to produce the edited content sequence (system selects clips and provides transitions between based on template and meta type data to perform auto-editing, cols. 1-2 and 8 etc.....).

Regarding claim 2, Marcus further anticipates ordering a subset of the portions of the source (met by only using less than all material audio-visual material that is available or a subset or less than all the material that is available, Fig. 5, templates, select and order sequences, clips and make transitions).

Regarding claim 3, Marcus further meets the limitations of wherein the template/templates (Fig. 5, select templates) defines more than one or a plurality of discrete sections, which are linked (use of more than one at a time, or multiple templates), to define the desired style, each discrete section (Fig. 2, also col. 9 ) having template metadata (specific data in a template) associated therewith.

Regarding claim 4-5, Marcus further meets the limitations of wherein the source can comprise video and audio material, a number of the discrete section types (audio control and content tags and video clips also with Tags), to identify the video material (Fig. 2, "luminance range, Chroma value and video control tags"), the template metadata identifying the corresponding type of video material (color, luminance, also col. 5, lines 3-40, "tags define audio and video components of clips", transition and optimum

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transition points, "creating fuzzy extremities on the clips", and other meta data or data about the data, etc.....).

Regarding claim 6, Marcus further meets the limitations of having at least one predetermined recognition tools and causing the source content to be reviewed (Fig. 2, "160 & 165 & 145 & 155 & 175", col. 8, lines 44-) by one or more predetermined recognition tools, user by comparing source meta with template meta data.

Regarding claim 7, Marcus further meets the limitation of wherein the metadata processing element is responsive to user inputs to enable user interaction during (col. 5, lines 40-, "The database is created by identifying each clip or other asset and defining values of the control and content tags for each." & "Values of the various control and content tags may be defined by the user, either during development of the script for the clip or upon completion of the clip") the generation of the source metadata (control and content tags).

Claims 8-11 are analyzed and discussed with respect to the claims above, wherein Marcus as addresses above has a computer editing program, as recited in claim 11.

**Contact Fax Information**

Any response to this action should be mailed to:  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communication intended for entry)

or:

(703) 308-5359, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

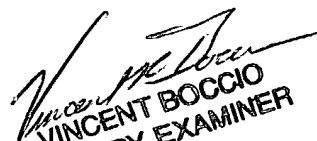
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Contact Information

1. Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Thursday, 8:00 AM to 5:00 PM Vincent F. Boccio (703) 306-3022.

Any inquiry of a general nature or relating to the status of this application should be directed to Customer Service (703) 306-0377.

Primary Examiner, Boccio, Vincent  
9/30/04

  
VINCENT BOCCIO  
PRIMARY EXAMINER